

DECISION



THE COMPTROLLER GENERAL OF THE UNITED STATES WASHINGTON, D.C. 20548

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FILE: B-19 39 32

DATE: March 14, 1979

MATTER OF:

A. A. Lasher, Inc. DLG 01188

Bid Failing to Offer Product Meeting All Salient Characteristics of Solicitation is

DIGEST:

Nonresponsive

1. Failure of "equal" product offered in low bid to meet all of the salient characteristics required by "brand name or equal" invitation properly resulted in rejection of bid as non-responsive, even though offered items might have satisfied the intent of the specifications.
2. Protest that salient characteristics required by "brand name or equal" invitation are too restrictive must be filed before bid opening to be timely. 4 C.F.R. § 20.2(b)(1) (1978).

A. A. Lasher, Inc. (Lasher), protests award of a contract to any other bidder under invitation for bids (IFB) No. F32605-79-B-0084, issued by the Grand Forks Air Force Base. The solicitation required delivery of Honeywell thermostats or equal and listed certain required salient characteristics. We find that the Air Force properly rejected Lasher's bid, lowest of four submitted, because Lasher's thermostats did not meet the salient characteristics set forth in the solicitation.

Lasher protests the rejection of its bid, and contends that the thermostats it offered economically satisfy the purpose for which the thermostats are intended and that they meet the "main" salient characteristics. Lasher does not deny that its bid fails to meet all of the salient characteristics required by the IFB.

The IFB stated:

"* * * Bids offering 'equal' products * * * will be considered for award if such products are clearly identified in the bids and are

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determined by the Government to meet fully the salient characteristics requirements referenced in the Invitation for Bids." Defense Acquisition Regulation § 7-2003.10 (1976 ed.).

The solicitation required the thermostats possess a temperature setting range of 40 to 90 degrees F., however, the literature furnished by Lasher stated that the lower range of the thermostat offered was only 50 degrees F. Although additional deviations from the salient characteristics were noted by the agency, we need not discuss them because Lasher's bid could be rejected solely on the basis of the deviation from the temperature setting range specified.

We have frequently held that bids offering "equal" products must conform to the salient characteristics listed in the IFB in order to be regarded as responsive. Ohio Medical Products, B-192317, October 23, 1978, 78-2 CPD 295; 49 Comp. Gen. 195, 198, 199 (1969). A non-responsive bid must be rejected even if the offered items function as well as the brand name units and satisfy the intent of the specifications. Environmental Conditioners, Inc., B-188633, August 31, 1977, 77-2 CPD 166. Therefore, the rejection of Lasher's bid, which failed to meet all the salient characteristics required by the IFB, was not unreasonable or otherwise improper.

Lasher's contention that the salient characteristics were too restrictive is untimely, since it raises an allegation of an impropriety in the solicitation apparent, but not raised, prior to bid opening. Ohio Medical Products, *supra*. Protests raising allegations of such improprieties must be filed before bid opening. 4 C.F.R. § 20.2(b)(1) (1978).

The protest is denied.


Deputy Comptroller General
of the United States